HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
12 June 1947

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UNITED STATES OF AMERICA VS MASAYOSHI KATO

Review of the Staff Judge Advocate

1. The attached record of trial of Masayoshi Kato, at Yokohama, Japan from 28 January 1947 to 5 February 1947, by a Military Commission appointed by paragraph 1, Special Orders No. 19, Headquarters Eighth Army, United States Army, dated 23 January 1947, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Masayoshi Kato
AGE: Thirty three (33)
RESIDENCE: Not shown
MARITAL STATUS: Not shown
RELATIVES: Not shown
EDUCATION: Not shown
VOCATION: Carpenter
MILITARY CAREER: 15 January 1943 till the end of the war.
CLEMENCY RECOMMENDED BY COMMISSION: No

DATE OF CONFINEMENT: 4 June 1946
DATE OF ARRAIGNMENT: 28 January 1947
PLACE OF TRIAL: Yokohama
PERIOD OF TRIAL: 28 January 1947 to 5 February 1947
DATE OF SENTENCE: 5 February 1947
SENTENCE: CHL for twenty five (25) years.

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2. Synopsis of Charges, Pleas, Findings, Legal Sufficiency and Sentence:

Charge and Specifications	Plea	Findings	Legally Sufficient
Charge: Accused at the times and places set forth in the specifications hereto attached, and during a time of war between the United States of America, its Allies and Dependencies, and Japan, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1. Between 16 June 1943 and 10 July 1944, accused, with others, did willfully and unlawfully, mistreat Hendrick J. Pitsen and Lieutenant Everett Samuel Combs, Dutch PW's, by beating them with fists, belts and slippers and by otherwise abusing them.	NG	G	Yes
Sp 2. That between 16 June 1943 and 10 July 1944, accused, with others, did willfully and unlawfully, mistreat and abuse Surgeon Lieutenant Charles A. Jackson, Seaman Thomas Hacker, Frank Gibbs, Jack H. Hopkinson and Marine John J. Quinn, British PW's, by beating them.	NG	G	Yes
Sp 3. Between 16 June 1943 and 23 November 1943, accused, with others, did, willfully and unlawfully, mistreat John Welford and numerous other British PW's, by beating them with belts, fists and boots.	NG	NG (R. 76)	

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Sp 4; Between 16 June 1942 and 20 July 1943, assaund, with others, did, wilfully and unlawfully, ill-treat numerous Allied PW's by beating them with fists, belts, slippers and canes, and by otherwise abusing them.	NG	Yes
Sp 5; That he on or about March 1945, assaund, did, wilfully and unlawfully, mistreat and abuse your unwilling victim, an American PW, by hitting him with a belt, thereby knocking out a tooth.	NG	Yes
Sp 6; Between 3 February 1945 and 11 May 1945, assaund, with others, did, wilfully and unlawfully, ill-treat, torture and abuse Sergeant John Kristopeit, Private Edward Hankinson and Private Edward Shenkus, American PW's, by beating them with belts, ropes and clubs and suspending them from ladders by their wrists.	Striking on motion of Prosecution (R. 5)	
Sp 7; Between 3 February 1945 and 11 May 1945, assaund, did, wilfully and unlawfully, mistreat and torture numerous Allied PW's, by beating them with clubs, belts and ropes and by otherwise abusing them.	NG	Guilty. Yes except the words, "and tortured numerous", "clubs", "belts" and "and ropes"; substituting therefor the words "several" and "a belt", of the excepted words, not guilty, of the substituted words, guilty.

Sentence Imposed: To be confined at hard labor for a period of twenty-five (25) years.

Sentence Reviewing Authority: Both.

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3. Summary of Evidence:

a. For the Prosecution:

As to Specification 1: Between 15 July and 15 October 1943, assaund and another Japanese named Takagawa at Shikoku Prison, Omuta, made PW Nilsen and Lt. Cooley, both PW's held there, stand their beds up two or three at a time, on many occasions. On 29 March 1944 assaund kicked Nilsen on the shins and slapped his face with rubber shoes. On 2 May 1944 following a complaint by the prisoners that beds had been found concealed for the PW's, assaund, Takagawa and Sumiya struck PW Lt. Cooley, PW Nilsen and other PW's at attention and slapped, beat and kicked them.

Rubber shoes, belts and shoulder ropes were used for from a quarter of an hour to an hour. Nilsen's face was swollen for about six weeks, some PW's had their ears cut and had to be bandaged, some suffered from severe headaches. PW Nilsen commented, "Only two out of three were smoking overtures when only pleasure seemed to be having us" (Pros. Ex. 3, 7, 12, 14).

As to Specification 2: In July 1945, following a report of theft of food by the Japanese at Kyushu Hospital, the following British PW's on the cooking staff were sent for and required to stand outside the Japanese officers' quarters: Lieutenant Hawkins, Lt. Hopkins, Corporal Wheeler, Trooper Gibbs, Engineer, Quinn and one other. The accused with two others took off their shoes and belts and indulged in a general beating up for over an hour (Pros. Ex. 2, 9).

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As to Specification 1, Major Ackroyd in his statement names accused as a medical orderly and states that he, and the other members of the Japanese staff with two exceptions, beat the prisoners constantly. PW Shannon was beaten by accused and Nakayama at least eight times over a three months period (Ex. 1). Accused drilled the prisoners and the smallest mistake was punished with slapping and beating (Ex. 3). The May 8th incident included the beating, slapping and kicking of patients, nurses and doctors, all the same, by the accused and two others, although PW Hurley states the accused did not take an active part (Ex. 12). When the patients were assembled, the other PW's were lined up on each side of a table, and the Japanese climbed on the table and beat the PW's with rubber shoes, belts and sheaths. It was a nightmare for nearly an hour. Kato entered the boys later where there were bed patients and pulled them to their feet, beating them about the head and body as he did so. Two of these patients were PW Wade with a rheumatic heart and PW Thyrne with gangrenous foot. A number of the sick men kicked and ill treated that night subsequently died, their bastened death "being definitely due to the treatment they received." (Ex. 1, 3, 5, 7, 12, 14). Accused was one of two persons in particular in the camp who were most abusive. Accused used a thick leather belt with a heavy buckle as a weapon for beating prisoners (Ex. 8). On one occasion accused and another beat several prisoners and then took eighteen prisoners outside and beat them with leather belts and wooden shoes until they were unconscious (Ex. 8). Accused beat PW Standley an American PW, unmercifully and the sight of one eye was probably destroyed. He was described as a brutal guard (Ex. 10). Private Harold Ross Shannon, an Australian, describes his experience at the Ichioka Hospital as follows:

"I left Kobe in March 1944 and went to Ichioka Hospital at Osaka where I remained for 9 months. This place was commonly known as the "DEATH CAMP". I was carrying out duties here as a medical orderly with Doctor Ackroyd of 2/2B Battalion (Residing at Frankston, Victoria) Whilst in this Camp, I witnessed many atrocities committed by Privates Kato and Nakayama who were Japanese Staff Medical Orderlies at this Hospital. Both Doctor Ackroyd and myself were victims on several occasions of bad beatings, the worst being delivered by either Kato or Nakayama. On one occasion, Doctor Ackroyd and myself were the victims of a particularly vicious beating carried out by both Kato and Nakayama. This beating was the direct result of an effort to protect patients' Food ration which was being stolen by Japanese Staff. This beating lasted about 3 hours and we were struck with belts and wooden clogs and left in a very dazed condition.

The hospital was virtually a place where sick prisoners were sent to die.

I witnessed, on several occasions, brutalities carried out by Kato and Nakayama, such as kicking a prisoner who lay unable to move, in a desperately ill state. I also heard on occasions both the above Kato and Nakayama and also other Japanese say after kicking a prisoner, 'You die tomorrow'. Invariably, these predictions would be correct." (Ex. 11).

PW Ashworth, another Australian PW, describes the conduct of the accused,

"Major C. F. Ackroyd received the worst beating. Kato belted him with everything he could lay his hands on. His face was red raw, and remained swollen for about a month afterwards. I witnessed this ill-treatment of Major Ackroyd.

Kato was a short, stocky, big headed Japanese, with short neck and protruding forehead. He also had a gruff voice, and small pig-like eyes.

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Sleeping quarters at the hospital were also very poor. A space of 12 feet by 8 feet accomodated 14 people.

These conditions were made all the worse, as the cramped space was occupied by men suffering from beri-beri, T.B., Scabies, amputated limbs, and gangrene." (Ex. 13).

"Kato was definately responsible for the maltreatment of prisoners of war at Ichiliom Hospital."

As to Specification 5 and 7, while at the Yokkaichi PW Camp, the accused mistreated four Allied prisoners including PW Walsh, an American PW, who describes the incident as follows:

"In March 1945 at the Yokkaichi Camp, one evening while I was legally playing cards with four other POW's, a civilian guard who was refused a cigaret by us reported the incident to Kato (a two-star private in the medical corps). Kato, who was a dope fiend and was under the influence of dope this particular evening, came into the barracks and beat us up with garrison belts. One of my front teeth was knocked out and two stitches had to be taken in my lip. This beating lasted about two hours, and then we were made to stand at attention in front of the guardhouse for another hour." (Ex. 4).

W. Densmore, a former PW in the same camp, took the witness stand and testified of the details of this cruelty (R. 16-24, 40-44). He added that these men were placed at attention along the wall beside the civilian guard's guardhouse "and with orders that any time an Allied prisoner passed that way he was to strike these poor men and hit them; and we were forced to go past these prisoners because it was on the way to the latrine" (R. 19-20). Accused was the only Japanese soldier in the camp at that time (R. 20). Exhibit No. 6, a statement by L. C. Carney (R. 47) and offered in support of specification 5, does not appear in the record.

b. For the Defense:

The accused, after being warned of his rights as a witness, took the witness stand and testified under oath. He had served in the army from 15 January 1943. He was a medical orderly at Ichiliom prison camp from 16 June 1943 to 10 July 1944 and at Yokkaichi POW Camp from 4 February to 11 May 1945 (R. 80). He remembered PW's Conlon, Quinn and Gibbs, but he did not remember PW's Nitema, Rhodes or Jackson (R. 8). He admitted beating four prisoners in all. One Dutch PW whose name he did not remember reported less than the number of prisoners that were out, and he reported less again on another occasion. The accused made the count himself and slapped the prisoner twice (R. 82, 92, 107). On another occasion he was ordered to beat Gibbs, Quinn and one other prisoner by the Japanese medical officer named Nasu. Dr. Nasu had found a quantity of medicine such as aspirin, absorbine and some power medicine under the beds of Lt. Jackson and one other PW. The doctor had PW Quinn and two other PW's stand at attention in front of the guards at the gate. At that time accused was telephone operator at the office. Dr. Nasu and PW Jackson came into the office and accused went into the next room. Dr. Nasu called him back, reprimanded him and ordered him to beat the three prisoners who were standing outside. Accused went over to them and struck them lightly with his open hand and returned to the office. He did not beat PW Jackson (R. 82, 83, 107, 108). He was never ordered to strike a PW by Lt. Matuyama nor did he strike any other in his presence (R. 84). He remembered that PW Conlon was pharmacist but he did not recall PW Nitema (R. 84). He did not drill PW's in how to stand at attention or bow (R. 84). He never struck PW Conlon, (R. 84). He recalled an incident in which Matuyama and Fuuko beat PW Conlon and twelve or thirteen other PW's for about twenty minutes with a belt and slipper (R. 85, 120). He did not take part in this incident (R. 86, 104). He did not recall PW's Major Akeroyd (R. 86, 91, 103, 111, 118) Lt Degree, Wade or Wickens (R. 86, 87). Nor did he recall PW's Walsh (R. 99) Shannon (R. 91) or Stradley (R. 99).

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He never used dope (R. 88, 96). While at Yokkaichi he was told by Sergeant Yamazaki that three PW's possibly had stolen something from the company and was ordered to beat them (R. 88, 108, 109). Accused used a leather belt folded with the buckle in his hand for this beating. He struck the prisoners about four times each (R. 10). One PW had blood on his upper lip near his nose so he stopped beating and took him to the dispensary (R.111). Accused did not knock out his teeth. The accused then went to his room and regretted that he beat the PW's under order (R. 89, 110). He never lined PW's up at a place where others would have to pass by (R. 89). Other than the incidents mentioned he did not abuse any PW (R. 94, 114). He stated that he made an error in recollection when he gave a statement on one occasion prior to trial to the prosecution to the effect that he beat the prisoners with a shipper at Yokkaichi (R. 93) and on another that he struck no PW's (R. 97). He hit no prisoners with shippers or fists, nor did he ever kick one (R. 93, 94). He never touched a sick PW (R. 94).

A statement of PW Hillenbrenner who was at Yokkaichi during the time accused was there, fails to mention the incident of the four men being struck, although he does mention other atrocities (Ex. A).

Shoichi Araki testified that he was a First Lieutenant and camp commander at Yokkaichi from 7 March to May 27, 1945 (R. 77). He had a conference with four senior Allied PW's and cautioned them to report any unlawful acts to him directly and that he would take the necessary measures. No reports were received (R. 77).

4. Opinion:

The record is legally sufficient to sustain the findings of the Commission and the sentence imposed. Mr. Ramsey testified in person concerning the beating of PW Walsh and three other prisoners at the Yokkaichi Camp (Specification 5). He identified the accused in court (R. 17) and described the beating administered with the buckle end of a belt (R. 19) with the resultant injuries to PW Walsh (R. 21). Affidavits and statements of former PW's amply support the findings under specifications 1, 2, 4 and 7.

The Commission properly overruled the objection by the defense to ex parte affidavits and statements based on the inability of the defense to confront or cross examine the witnesses. (Par 5d of SCAP letter of 5 December 1945 filed in the record of the case.)

The Commission also properly denied the motion of the defense to set aside the findings in regard to specifications 1, 2 and 7 (R. 131-2). The defense contended that the Commission was a national, not an international tribunal and had no jurisdiction over offenses committed outside the territorial limits of the United States and against Allied nationals not citizens of the United States. However, the record indicates that the Supreme Commander for the Allied Powers directed the establishment of the Commission that conducted the trial, and assigned the case to the Commission for trial. The Commission was constituted by proper authority and had jurisdiction over the accused and the offenses charged.

5. Recommendations:

The request for clemency submitted on behalf of the accused has been read and carefully considered. The accused acted at times while mad, in a rage. His actions were those of a savage and despicable character. These brutal beatings merit little sympathy or mercy.

The Commission sentenced the accused to confinement at hard labor for twenty-five years. It is considered that this sentence is adequate and it is recommended that this sentence be approved. However, the accused spent eight months in jail prior to sentence. It is recommended that in order that he be given credit for five (5) months of this time, five (5) months be remitted from the sentence of twenty-five (25) years. The sentence is legal and is supported by the evidence. Sugamo Prison, Tokyo, Japan is the appropriate place of confinement.

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[redacted] is recommended that the application of the petition be not with the findings of the commission and to notify the petitioner thereof by counsel.

6. [redacted]

A form of action designed to carry this recommendation into effect is attached hereto.

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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Commanding General
APO 343

Yokohama, Japan
23 July 1947

In the foregoing case of Masayoshi Kato, the application of the Defense to set aside the findings of the Commission and to modify the sentence imposed is denied and the sentence is approved. Owing to the length of time the accused had been in confinement prior to sentence, five (5) months of the confinement at hard labor imposed are remitted. As modified the sentence will be duly executed. Sugamo Prison, Tokyo, Honshu, Japan, or elsewhere as the Supreme Commander for the Allied Powers, or other proper authority, may direct, is designated as the place of confinement.

/s/R. L. Eichelberger
R. L. EICHELBERGER
Lieutenant General, U. S. Army
Commanding

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